

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
)	
v.)	CASE NO. 2:06-cr-12-MEF
)	
TERRENCE CORNELIUS)	
DEMETRIUS J. HAWKINS)	

ORDER

On November 20, 2006, the parties filed a Joint Motion for Continuance (Doc. # 157). While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is, of course, limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. §3161(c)(1). See *United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any continuance that the judge grants "on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A).

The motion states that the government has a conflict with the first week of the November 27, 2006 criminal term, and that Paul Cooper, counsel for Terrence Cornelius, has a conflict beginning the second week of the term. Further, the motion states that Malcolm

Newman, attorney for Demetrius Hawkins, has had logistical difficulties in meeting with his client based on scheduling and reviewing the trial transcript. Finally, it states that Howard Greenberg, attorney for Terrence Cornelius, also has scheduling and logistical problems. No party opposes a continuance. Consequently, the court concludes that a continuance of this case is warranted and that the ends of justice served by continuing this case outweighs the best interest of the public and the defendants in a speedy trial. *See United States v. Davenport*, 935 F.2d 1223, 1235 (11th Cir. 1991) (reasonable time necessary for effective preparation is a significant factor for granting a continuance under the Speedy Trial Act).

Accordingly, it is hereby ORDERED:

1. That the Joint Motion for Continuance (Doc. # 157), filed on November 20, 2006 is GRANTED;
 2. That the trial of these defendants is continued from the November 27, 2006 trial term to the February 5, 2007 trial term.
 3. That the Magistrate Judge conduct a pretrial conference prior to the new trial date.
- DONE this the 22nd day of November, 2006.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE